REMARKS

Applicant has very carefully considered the Examiner's outstanding Office Action. Claim 34 has been amended to obviate the outstanding objection. Dependent claim 21 has been rewritten in independent form so as to obviate the outstanding of objection relative thereto.

As explained below, Widin et al. does not anticipate any of claims 19, 22, 23, 30, 31, 33, 34, 36 and 37. As also explained below, Widin et al. in view of Weinfurtner does not make obvious any of claims 20, 24, 25, 27-29, 32, 35 and 38.

We initially note that the requirements for anticipation are quite specific and set out in the MPEP:

> "The identical invention must be shown in as complete detail as is
> contained in the...claim...The elements must be arranged as required by the
> claim" (MPEP 8ed. rev 2 (May 2004, page 2100-73))

The outstanding anticipation rejections are not in keeping with the above-identified standard.

Widin et al. discloses the use of an audiogram 110 (col. 6 line 42). An audiogram is a representation of a person's individual hearing loss as a function of frequency and does not represent pre-stored audio stimuli.

An audiogram is usually determined by equipping a person with a headset, and then supplying audio stimuli with a well defined frequency to the person's ear (one at the time), and then gradually the volume is increased until the person indicates that he/she can hear the auditory stimuli. Next an auditory stimuli with a new frequency is chosen and so on. The procedure runs through the frequency spectrum that is audible by a person with normal hearing.

The measurements are plotted as volume (usually in dB) versus frequency. The curve generated by linear interpolation between neighboring points is then called the audiogram.

Thus, the auditory stimuli that is used to determine the audiogram is **not** presented to the hearing aid, and there is nowhere in Widin et al. any suggestion that the audiogram is measured when the hearing aid is in the person's ear.

Keeping the above in mind, the Examiner in rejecting claim 19 asserted that Widin et al. discloses:

> "software executable by the processor for presenting pre-stored audio
> stimuli (110) to the hearing aid and circuitry for receipt of real-time feedback
> (134) from a user of the hearing aid, the feedback being related to the presented
> pre-stored audio stimuli" (Office Action, page 2 bottom 4 lines)

The above statement is technically incorrect and is not anticipatory. As described above, the audiogram 110 is created off-line and no audio signals are presented to the hearing aid in the process thereof. As Widin et al. describes the audiogram process 110:

> "First, an audio gram 110 is made of the individual's 30 hearing
> impairment by standard well known techniques...The audiogram 110 represents
> the actual auditory ability of the individual 30 and, hence, illustrates or represents
> the hearing impairment of the individual 30. From the hearing impairment of the
> individual 30, as represented by the audiogram 110, the prescriptive method, or
> compensation of the hearing impairment 112 can be developed, also by well
> known techniques. (Widin et al. Col. 5, lns 51-64)

Hence, as made clear above, Widin et al. never presents:

> "pre-stored audio stimuli" to a hearing aid as claimed.

Further, the Examiner incorrectly asserted in rejecting various of the claims as anticipated that Widin et al. discloses:

"circuitry for receipt of real-time feedback (134) from a user of the hearing

aid, the feedback being related to the presented pre-stored audio stimuli" (Office

Action, pg 2, bottom 2 lines thereof)

As clearly set forth in Widin et al., there is no real-time feedback (134) from a user of the

hearing aid as asserted by the Examiner. In this regard Widin et al. states:

"the remainder of the iterative adjustment technique contained in steps

128-134 may be performed by the fitting system 32 with the automated fitting

program 34 operating in direct conjunction with the software model 36 and

without utilization, of or connection with, the actual auditory prosthesis 10 or any

encomparence of the individual 30. Thus, individual 30 avoids the long, arduous,

iterative adjustment techniques involved in the processing of the fitting system

32." (Col. 7, lns 46-54 Widin et al.)

Clearly, Widin et al. cannot anticipate any of claims 19, 22, 23, 30, 31, 33, 34, 36 and 37

as argued by the Examiner for at least the above reasons. Additional reasons for non-anticipation

follow.

The Examiner also improperly asserted that Widin et al. discloses:

"second software executable by the processor is responsive to user

feedback to modify the parameters of the hearing aid in accordance with that

feedback (130, 132, 118)" (Office Action, pg 2, last line , pg 3, first 3 lines)

As quoted above from Widin et al. the steps 130, 132 are carried out "without utilization,

of or connection with, the actual auditory prosthesis 10 or any encumbrance of the individual 30.

Thus, individual 30 avoids the long, arduous, iterative adjustment techniques involved in

processing of the fitting system 32." (Col. 7, lns. 50-54 Widin et al.). Real-time user feedback as

claimed is not involved in the process of Widen et al.

The Examiner's assertion relative to elements 130, 132 is simply not in keeping with the

disclosure and intent of Widin et al. Further, element 118 does not make adjustments based on

real-time user feedback but rather the results of operation of the fitting system and automated fitting program 34 as described above by Widin et al. relative to steps 130, 132 and 134. Thus, for at least the above additional reasons none of the rejected claims are anticipated by Widin et al.

In accordance with the above, the rejections of claim 30 and its dependent claims 31 and 33 are also defective for failing to meet the required standards for anticipation. In attempting to develop a rational in support of the anticipation rejection of claims 30, 31 and 33 the Examiner stated that Widin et al. discloses:

> "circuitry for presenting pre-stored sound stimuli to the hearing aid (110)
> for user evaluation of the performance of the hearing aid using the program
> parameters;" (page 3 Office Action, lns 10-12)

As described above, the element 110 is an audiogram which is an off-line determination of an individual's hearing characteristics which has nothing whatsoever to do with "circuitry for presenting pre-stored sound stimuli to the hearing aid for user evaluation of the performance of the hearing aid using the programmed parameters"(claim 30) as alleged by the Examiner in the Office Action. Further, as also described above the anticipation rejection of claims 30, 31, and 33 is also defective in that the Examiner's assertion that Widin et al. discloses:

> "circuitry for receiving user feedback of the pre-stored sound stimuli and
> for modifying the current set of parameters (130, 132, 118) forming an updated set
> of parameters" (Office Action, page 3, lns 12-14)

is technically inaccurate.

As described above, steps 130, 132 and 134 are:

> "performed by the fitting system 32 with the automated fitting program 34
> operating in direct conjunction with the software model 36 and without

utilization, of or connection with, the actual auditory prosthesis 10 or any

encumbrance of the individual 30." (Widin et al. Col. 7, lns 46-52)

There is thus no "circuitry for receiving user feedback" as claimed. For at least the above

reasons none of claims 30, 31, and 33 are anticipated by Widin et al.

Neither of claims 34 and 36 are anticipated by Widin et al. in that Widin et al. simply

does not disclose as alleged by the Examiner:

> "software for presenting pre-stored audio stimuli (110) to a programmable
>
> hearing aid and circuitry for receipt of real-time feedback from the hearing aid
>
> user relative to the presented pre-stored audio stimuli" (Office Action, page 3,
>
> bottom line and page 4, top 2 lines)

As discussed above, audiogram 110 is prepared off-line and completely apart from any

hearing aid which is to be programmed. The results of the audiogram, which might be just a

two-dimensional graph, are used a subsequently as described in Widin et al. However, the output

of the audiogram 110, a graph illustrating characteristics of an individual's hearing, is quite apart

from and exists completely separate from any programmable hearing aid. Thus, for at least the

above reasons, neither claim 34 nor claim 36 are anticipated by Widin et al.

Similarly, claim 37 is not anticipated by Widin et al. In attempting to reject claim 37 as

anticipated the Examiner has incorrectly stated that Widin et al. discloses:

> "presenting pre-stored audio stimuli (110) to a hearing aid programmed
>
> with a set of parameters; b) receiving feedback responsive to stimuli from a user
>
> of the hearing aid (134)" (Page 4 Office Action, lns 12-14)

As described above, the audiogram 110 is created quite apart from any hearing aid. It

does not present "pre-stored audio stimuli to a hearing aid" as claimed. Additionally, the

feedback block 134 noted by the Examiner is not responsive to "stimuli from a user of the

hearing aid" as asserted by the Examiner in that as described by Widin et al.:

"the remainder of the iterative adjustment technique contained in steps
128-134 may be performed by the fitting system 32 with the automotive fitting
program 34 operating in direct conjunction software model 36 and without
utilization, of or connection with, the actual auditory prosthesis 110 or any
encumbrance of the individual 30. Thus, individual 30 avoids the long, arduous,
iterative adjustment techniques involved in processing the fitting system 32."
(Widin et al. Col. 7, lns 46-54)

Thus, for at least the above reasons none of the pending claims 19, 22, 23, 30, 31, 33, 34,
26 or 37 are anticipated by Widin et al.

The rejections of pending claims 20, 24, 25, 27-29, 32, 35 and 38 as obvious and
unpatentable over Widin et al. in view of Weinfurtner is also defective. Widin et al. continues to
suffer from the defects described above. The Examiner has relied on Weinfurtner for teaching "a
fitting system for a programmable hearing aid utilizing fuzzy logic processing to meaningfully
adapt the hearing aid settings" (page 5 Office Action). However, Weinfurtner does not disclose
presenting, or circuitry or software for the presenting of pre-stored audio stimuli to a hearing aid
and circuitry for real-time feedback from a user of the hearing aid as claimed. (See claim 19).
Nor does Weinfurtner disclose "software for presenting pre-stored audio stimuli programmable
hearing aid and circuitry for receipt of real-time feedback from the hearing aid user relative to the
presented pre-stored audio stimuli" (pending claim 35). Similar comments apply to rejected
claim 38 which incorporates "presenting pre-stored audio stimuli to a hearing aid programmed
with a set of parameters; receiving feedback responsive to the stimuli from a user of the hearing
aid" (claim 38).

Further, the Examiner has failed to identify any motivation, suggestion or teaching in
either the Widin et al. or Weinfurtner which would cause one of ordinary skill in the art to
modify Widin et al. so as to make any of the pending claims 20, 24, 25, 27-29, 32, 35 and 38
obvious.

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Amendment A
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Allowance of the application is respectfully requested.

Respectfully submitted,

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